

AMENDED IN ASSEMBLY MAY 3, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1493**

**Introduced by Assembly Member Keeley**

February 23, 2001

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~~An act to amend Section 10504 of the Government Code, relating to state audits.~~ *An act to amend Section 156.1 of the Business and Professions Code, to amend Sections 8448, 22217, 22362, 41320, and 62004 of the Education Code, to amend Sections 7604, 8543.1, 8544.2, 8544.3, 8544.5, 8544.6, 8545, 8545.1, 8545.2, 8545.4, 8545.5, 8546.1, 8546.3, 8546.4, 8546.8, 12430, 13297, 13298, 13299, 13299.1, 13405, 16366.7, 53134, and 53138 of, to amend the heading of Article 3 (commencing with Section 8547) of Chapter 6.5 of Division 1 of Title 2 of, and to amend and renumber Section 8546.5 of, the Government Code, to amend Section 18052.5 of the Health and Safety Code, to amend Section 10359 of the Public Contract Code, to amend Section 2154 of the Streets and Highways Code, to amend Sections 11212 and 11222 of the Vehicle Code, and to amend Section 14100.2 of the Welfare and Institutions Code, relating to the Bureau of State Audits.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1493, as amended, Keeley. ~~State audits: Auditor General: Bureau of State Audits.~~

*Existing law establishes the Bureau of State Audits under the direction of the Milton Marks Commission on California State Government Organization and Economy, and generally provides that any reference in state law to the Auditor General or the office of the Auditor General with respect to the performance of audits, shall be*

*construed to refer to the State Auditor or the Bureau of State Audits, respectively.*

*This bill would delete obsolete references to the office of the Auditor General and the Auditor General and make various other technical, nonsubstantive changes.*

~~Existing law specifies a procedure for selection of an Auditor General by concurrent resolution after a recommendation by the Joint Legislative Audit Committee.~~

~~This bill would make a technical, clarifying change to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. Section 10504 of the Government Code is~~  
2 *SECTION 1. Section 156.1 of the Business and Professions*  
3 *Code is amended to read:*  
4 156.1. (a) Notwithstanding any other provision of law,  
5 individuals or entities contracting with the department or any  
6 board within the department for the provision of services relating  
7 to the treatment and rehabilitation of licentiates impaired by  
8 alcohol or dangerous drugs, shall retain all records and documents  
9 pertaining to those services until such time as these records and  
10 documents have been reviewed for audit by the department. These  
11 records and documents shall be retained for a maximum of three  
12 years from the date of the last treatment or service rendered to that  
13 licentiate, or until such time as the records pertaining to treatment  
14 or services rendered to that licentiate are audited, whichever  
15 occurs first, after which time the records and documents may be  
16 purged and destroyed by the contract vendor. This provision shall  
17 supersede any other provision of law relating to the purging or  
18 destruction of records pertaining to those treatment and  
19 rehabilitation programs.  
20 (b) Notwithstanding any other provision of law, all records and  
21 documents pertaining to services for the treatment and  
22 rehabilitation of licentiates impaired by alcohol or dangerous  
23 drugs provided by any contract vendor to the department or to any  
24 board within the department shall be kept confidential and are not  
25 subject to discovery or subpoena.



(c) With respect to all other contracts for services with the department or any board within the department other than those set forth in subdivision (a), the director or chief deputy director may request an examination and audit by the department's internal auditor of all performance under the contract. For this purpose, all documents and records of the contract vendor in connection with such performance shall be retained by such vendor for a period of three years after final payment under the contract. Nothing in this section shall affect the authority of the ~~Auditor General State Auditor~~ to conduct any examination or audit under the terms of Section ~~10532~~ 8546.7 of the Government Code.

SEC. 2. *Section 8448 of the Education Code is amended to read:*

8448. As used in this article:

(a) "Financial and compliance audit" means a systematic review or appraisal to determine each of the following:

(1) Whether the financial statements of an audited organization fairly present the financial position and the results of financial operations in accordance with generally accepted accounting principles.

(2) Whether the organization has complied with laws and regulations that may have a material effect upon the financial statements.

(b) "Public accountants" means certified public accountants, or state licensed public accountants.

(c) "Independent auditors" means public accountants who have no direct or indirect relationship with the functions or activities being audited or with the business conducted by any of the officials or contractors being audited.

(d) "Generally accepted auditing standards" means the auditing standards set forth in the financial and compliance element of the ~~"Standards for Audit of Governmental Organization, Programs, Activities, and Functions"~~ "Government Auditing Standards" issued by the Comptroller General of the United States and incorporating the audit standards of the American Institute of Certified Public Accountants.

(e) "Direct service contract" means any contract with any public or private entity for child care and development programs, resource and referral programs, and programs contracting to provide support services as defined in Section 8208.

(f) “Nonprofit organization” means an organization described in Section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under Section 501(a) of that code, or any nonprofit, scientific, or educational organization qualified under Section 23701d of the Revenue and Taxation Code.

(g) Annually, there shall be a single independent financial and compliance audit of organizations that contract with the state under a direct service contract. Any such audit shall include an evaluation of the accounting and control systems of the direct service contractor and of the activities by the contractor to comply with the financial requirements of direct service contracts received by the contractor from the state agency. The financial and compliance requirements to be reviewed during the audit shall be those developed and published by the State Department of Education in consultation with the Department of Finance and the Auditor General. Audits carried out pursuant to this section shall be audits of the contractor rather than audits of individual contracts or programs. In the case of any contractor that receives less than twenty-five thousand dollars (\$25,000) per year from any state agency, the audit required by this section shall be conducted biennially, unless there is evidence of fraud or other violation of state law in connection with the direct service contract. The cost of the audit may be included in direct service contracts.

The organization receiving funds from the state shall be responsible for obtaining the required financial and compliance audits of the organization and any subcontractors, except for direct service subcontracts and other subcontracts exempt from State Department of Education review, as agreed to by the Departments of Finance and General Services. The audits shall be made by independent auditors in accordance with generally accepted auditing standards. The audit shall be completed by the 15th day of the fifth month following the end of the contractor’s fiscal year. A copy of the required audit ~~will~~ *shall* be filed with the State Department of Education upon its completion. In the event an audit is not filed, the State Department of Education ~~will~~ *shall* notify the organization of the contract violation. The audit report filed ~~will~~ *shall* be an integral part of the direct service contract file.

(i) (1) Nothing in this article limits the authority of the State Department of Education to make audits of direct service contracts. However, if independent audits arranged for by direct

1 service contractors meet generally accepted auditing standards,  
2 the State Department of Education shall rely on those audits and  
3 any additional audit work shall build upon the work already done.

4 (2) Nothing in this article precludes the state from conducting,  
5 or contracting for the conduct of, contract performance audits  
6 which are not financial and compliance audits.

7 (3) Nothing in this article limits the state's responsibility or  
8 authority to enforce state law or regulations, procedures, or  
9 reporting requirements arising pursuant thereto.

10 (4) Nothing in this article limits the responsibility of the State  
11 Department of Education to provide an independent appeal  
12 procedure according to the provisions of the Administrative  
13 Procedure Act (Chapter 5 (commencing with Section 11500) of  
14 Part 1 of Division 3 of Title 2 of the Government Code.

15 *SEC. 3. Section 22217 of the Education Code is amended to*  
16 *read:*

17 22217. (a) The board shall employ a certified public  
18 accountant or public accountant, who is not in public employment,  
19 to audit the financial statements of the system. The costs of the  
20 audit shall be paid from the income of the retirement fund. The  
21 audit shall be made annually commencing with the fiscal year  
22 ending June 30, 1974. The board shall file a copy of the audit report  
23 with the Governor, the Secretary of the Senate, and the Chief Clerk  
24 of the Assembly.

25 (b) These audits shall not be duplicated by the Department of  
26 Finance or the ~~Auditor General~~ *State Auditor*. The system shall be  
27 exempt from a pro rata general administrative charge for auditing.

28 *SEC. 4. Section 22362 of the Education Code is amended to*  
29 *read:*

30 22362. (a) Notwithstanding any other provision of law, the  
31 board shall give first priority to investing not less than 25 percent  
32 of all funds of the plan that become available in a fiscal year for  
33 new investments, in any of the following:

34 (1) Obligations secured by a lien or charge solely on residential  
35 realty, including rental housing, located in the state and on the  
36 security of which, commercial banks are permitted to make loans  
37 pursuant to Article 2 (commencing with Section 1220) of Chapter  
38 10 of Division 1 of the Financial Code.

1 (2) Securities representing a beneficial interest in a pool of  
2 obligations secured by a lien or charge solely on residential realty  
3 located in the state.

4 (3) Certificates of deposit issued by savings and loan  
5 associations, if the savings and loan associations agree to make  
6 loans, or to fund tax-exempt notes or bonds issued by housing  
7 authorities, cities, or counties, on residential realty located in the  
8 state, including rental housing, in an amount equal to the amount  
9 of the deposit.

10 (b) Funds subject to investment pursuant to this section include  
11 all moneys received as employer and member contributions,  
12 investment income, and the proceeds from all net gains and losses  
13 from securities, reduced by the amount of benefit payments and  
14 withdrawals occurring during the fiscal year. In computing the  
15 amount of investment pursuant to this section, a dollar-for-dollar  
16 credit shall be given for residential realty investments described in  
17 this section that are contractually agreed to be made by a financial  
18 institution from which the board, in consideration thereof,  
19 purchases other such investments. In computing the amount of  
20 investment pursuant to this section, the board may elect to include  
21 the dollar amount of commitments to purchase mortgages from  
22 public revenue bond programs in the year the commitment is  
23 given. However, that election may not exceed one-fifth of the total  
24 guideline amount.

25 (c) Nothing in this section shall be construed to require the  
26 acquisition of any instrument or security at less than the market  
27 rate.

28 (d) If the board determines during any fiscal year that  
29 compliance with this section will result in lower overall earnings  
30 for the retirement fund than obtainable from alternative  
31 investment opportunities that would provide equal or superior  
32 security, including guarantee of yield, the board may substitute  
33 those higher yielding investments, to the extent actually available  
34 for acquisition, for the investments otherwise specified by this  
35 section. Additionally, if, and to the extent that, adherence to the  
36 diversification guideline specified in this section would conflict  
37 with its fiduciary obligations in violation of Section 9 of Article  
38 I of the California Constitution or Section 10 of Article I of the  
39 United States Constitution, or would conflict with the standard for  
40 prudent investment of the fund as set forth in Section 17 of Article

XVI of the California Constitution, the board may substitute alternative investments. In that case, the board shall estimate the amount of funds available in substitute alternative investments and the amount of funds invested pursuant to subdivision (a) and shall submit its resolution of findings and determinations, together with a description of the type, quantity, and yield of the investments substituted, to the Governor and to the Joint Legislative Audit Committee within 20 days following the conclusion of the fiscal year. Within 30 days thereafter, the Joint Legislative Audit Committee shall transmit the ~~Auditor General's~~ *State Auditor's* report to the Speaker of the Assembly and to the Senate Committee on Rules for transmittal to affected policy committees.

(e) The board, upon determining the final amount of funds available for investment in substitute alternative investments and the estimated amount of funds invested pursuant to subdivision (a), shall submit that information to the Governor and the Joint Legislative Audit Committee. Thereafter, the Joint Legislative Audit Committee shall transmit the report of the ~~Auditor General~~ *State Auditor* to the Speaker of the Assembly and the Senate Committee on Rules for transmittal to the affected policy committees.

*SEC. 5. Section 41320 of the Education Code is amended to read:*

41320. As a condition to any emergency apportionment to be made pursuant to Section 41310, the following requirements shall be met:

(a) The district requesting the apportionment shall submit to the county superintendent of schools having jurisdiction over the district a report issued by an independent auditor approved by the county superintendent of schools on the financial conditions and budgetary controls of the district, a written management review conducted by a qualified management consultant approved by the county superintendent of schools, and a fiscal plan adopted by the governing board to resolve the financial problems of the district.

(b) The county superintendent of schools shall review, and provide written comment on, the independent auditor's report, the management review, and the district plan. That written comment shall include the county superintendent's approval or disapproval of the district plan. In the event the county superintendent disapproves the plan, the governing board shall revise the district



1 plan to respond to the concerns expressed by the county  
2 superintendent.

3 (c) Upon his or her approval of the district plan, the county  
4 superintendent of schools shall submit copies of the report, review,  
5 plan, and written comments specified in subdivision (b) to the  
6 Superintendent of Public Instruction, the ~~Auditor General~~ *Joint*  
7 *Legislative Audit Committee*, the Joint Legislative Budget  
8 Committee, the Director of Finance, and the Controller.

9 (d) The Superintendent of Public Instruction shall review the  
10 reports and comments submitted to him or her by the county  
11 superintendent of schools and shall certify to the Director of  
12 Finance that the action taken to correct the financial problems of  
13 the district is realistic and will result in placing the district on a  
14 sound financial basis.

15 (e) The district shall develop a schedule to repay the emergency  
16 loan and submit it to the county superintendent of schools. The  
17 county superintendent of schools shall review and comment on the  
18 repayment schedule and submit it to the Superintendent of Public  
19 Instruction for approval or disapproval. Upon the approval of the  
20 repayment schedule, and of the other reports, reviews, plans, and  
21 the appointment of the trustee required by this article, the  
22 Superintendent of Public Instruction shall request the Controller  
23 to disburse the proceeds of the emergency loan to the district.

24 (f) The district requesting the apportionment shall reimburse  
25 the county superintendent of schools for the costs incurred by the  
26 superintendent pursuant to this section.

27 *SEC. 6. Section 62004 of the Education Code is amended to*  
28 *read:*

29 62004. The ~~Auditor General~~ *State Auditor* shall audit, on a  
30 sampling basis, school districts' use of the funds specified in  
31 Section 62002.

32 *SEC. 7. Section 7604 of the Government Code is amended to*  
33 *read:*

34 7604. In the event of a loss in the reacquisition of loaned  
35 securities, the responsible state agency shall make a written report  
36 of ~~such~~ the loss to the Legislature and the ~~Auditor General~~ *State*  
37 *Auditor* as soon as possible, but not later than 30 days after the  
38 incurrence of ~~such~~ that loss.

39 *SEC. 8. Section 8543.1 of the Government Code is amended*  
40 *to read:*



1 8543.1. The duties of the Bureau of State Audits are to  
2 examine and report annually upon the financial statements  
3 prepared by the executive branch of the state and to perform other  
4 related assignments, including performance audits, that are  
5 mandated by statute. *For the purposes of this chapter "bureau"*  
6 *means the "Bureau of State Audits," unless the context clearly*  
7 *requires otherwise.*

8 *SEC. 9. Section 8544.2 of the Government Code is amended*  
9 *to read:*

10 8544.2. Persons employed by the ~~Bureau of State Audits~~  
11 *bureau* pursuant to Section 8544.1 shall be allowed to enroll in the  
12 Public Employees' Medical and Hospital Care Act contained in  
13 Part 5 (commencing with Section 22751) of Division 5 of Title 2.

14 *SEC. 10. Section 8544.3 of the Government Code is amended*  
15 *to read:*

16 8544.3. All persons employed by the ~~Bureau of State Audits~~  
17 *bureau* pursuant to Section 8544.1 who were members of the  
18 Public Employees' Retirement System as of November 3, 1992,  
19 shall retain their existing classification within the system and shall  
20 be considered state miscellaneous members as defined in Section  
21 20014.

22 *SEC. 11. Section 8544.5 of the Government Code is amended*  
23 *to read:*

24 8544.5. (a) There is hereby established in the State Treasury  
25 the State Audit Fund. Notwithstanding Section 13340, the State  
26 Audit Fund is continuously appropriated for the expenses of the  
27 State Auditor. There shall be appropriated annually in the Budget  
28 Act to the State Audit Fund, from the General Fund, the amount  
29 necessary to reimburse the State Audit Fund for the cost of audits  
30 to be performed that are not directly reimbursed under subdivision  
31 (c). "Cost of audits" means all direct and indirect costs of  
32 conducting the audits and any other related expenses incurred by  
33 the State Auditor in fulfilling his or her statutory responsibilities.

34 (b) Upon certification by the State Auditor of estimated costs  
35 on a monthly basis, the Controller shall transfer the amount thus  
36 certified from the General Fund to the State Audit Fund. The  
37 Controller shall thereafter issue warrants drawn against the State  
38 Audit Fund upon receipt of claims certified by the State Auditor.

39 (c) To ensure appropriate reimbursement from federal and  
40 special funds for the costs of the duties performed pursuant to

1 Section 8546.3, the State Auditor may directly bill state agencies  
2 for the costs incurred, subject to the approval of the Director of  
3 Finance.

4 ~~(d) As of May 7, 1993, all unallocated funds in the Auditor~~  
5 ~~General Fund pursuant to former Section 10507 shall be available~~  
6 ~~for transfer to the State Audit Fund pursuant to subdivision (b).~~  
7 ~~The amount of funds provided in Item 8855-011-001 of Chapter~~  
8 ~~587 of the Statutes of 1992 (Budget Act of 1992) shall be available~~  
9 ~~for transfer to the State Audit Fund pursuant to subdivision (b)~~  
10 ~~without regard to Provision 1 of that item.~~

11 ~~(e)~~

12 (d) To ensure adequate oversight of the operations of the  
13 bureau, the Milton Marks “Little Hoover” Commission on  
14 California State Government Organization and Economy shall  
15 annually obtain the services of an independent public accountant  
16 to audit the State Audit Fund and the operation of the bureau to  
17 assure compliance with state law, including Section 8546. The  
18 results of this audit shall be submitted to the commission and shall  
19 be a public record.

20 ~~(f) In order to~~

21 (e) To ensure that audits of the Milton Marks “Little Hoover”  
22 Commission on California State Government Organization and  
23 Economy are conducted in conformity with government auditing  
24 standards, any audit of the commission that is required or  
25 permitted by law shall be conducted by the independent public  
26 accountant selected pursuant to subdivision ~~(e)~~ (d).

27 *SEC. 12. Section 8544.6 of the Government Code is amended*  
28 *to read:*

29 8544.6. All unreimbursed expenditures of the ~~Bureau of State~~  
30 ~~Audits~~ bureau are defined as “administrative costs” defined in  
31 Section 11270.

32 *SEC. 13. Section 8545 of the Government Code is amended to*  
33 *read:*

34 8545. The State Auditor shall not destroy any papers or  
35 memoranda used to support a completed audit sooner than three  
36 years after the audit report is released to the public. All books,  
37 papers, records, and correspondence of the bureau pertaining to its  
38 work are public records subject to Chapter 3.5 (commencing with  
39 Section 6250) of Division 7 of Title 1 and shall be filed at any of  
40 the regularly maintained offices of the State Auditor, except that

1 none of the following items or papers of which these items are a  
2 part shall be released to the public by the State Auditor, his or her  
3 employees, or members of the commission:

4 (a) Personal papers and correspondence of any person  
5 ~~receiving~~ *providing* assistance ~~from~~ *to* the State Auditor when that  
6 person has requested in writing that his or her papers and  
7 correspondence be kept private and confidential. Those papers and  
8 correspondence shall become public records if the written request  
9 is withdrawn or upon the order of the State Auditor.

10 (b) Papers, correspondence, memoranda, or any *substantive*  
11 information pertaining to any audit not completed.

12 (c) Papers, correspondence, or memoranda pertaining to any  
13 audit that has been completed, which papers, correspondence, or  
14 memoranda are not used in support of any report resulting from the  
15 audit.

16 *SEC. 14. Section 8545.1 of the Government Code is amended*  
17 *to read:*

18 8545.1. ~~It is a misdemeanor for the~~ (a) *The State Auditor or,*  
19 *and any employee or former employee of the bureau to divulge or*  
20 ~~make known in any manner not expressly permitted by law, is~~  
21 *prohibited from divulging or making known to any person not*  
22 *employed by the bureau in any manner not expressly permitted by*  
23 *law any particulars of any record, document, or information the*  
24 *disclosure of which is restricted by law from release to the public.*  
25 ~~This prohibition is also applicable to any~~ *This prohibition*  
26 *includes, but is not limited to, the restrictions on the release of*  
27 *records, documents, or information set forth in Section 8545.*

28 (b) *The prohibition established by subdivision (a) also applies*  
29 *to:*

30 (1) *Any person or business entity that is contracting with or has*  
31 *contracted with the State Auditor bureau and to the employees and*  
32 *former employees of that person or business entity or the.*

33 (2) *The officers and employees of and any person or business*  
34 *entity that is contracting with or has contracted with any state or*  
35 *local governmental agency or public publicly created entity that*  
36 *has assisted the State Auditor bureau in the course of any audit or*  
37 *investigative audit or that has been furnished received a draft copy*  
38 *of any report or other draft document from the bureau for comment*  
39 *or review.*

1 (c) Any officer, employee, or person who discloses the  
2 particulars of any record, document, or other information in  
3 violation of this section is guilty of a misdemeanor.

4 SEC. 15. Section 8545.2 of the Government Code is amended  
5 to read:

6 8545.2. (a) Notwithstanding any other provision of law, the  
7 State Auditor during regular business hours shall have access to  
8 and authority to examine and reproduce, any and all books,  
9 accounts, reports, vouchers, correspondence files, and other  
10 records, bank accounts, and money or other property, of any  
11 agency of the state, whether created by the California Constitution  
12 or otherwise, ~~and any public~~ any local governmental entity,  
13 including any city, county, and school or special district, ~~and any~~  
14 ~~publicly created entity~~, for any audit or investigative audit. Any  
15 officer or employee of any agency or entity having these records  
16 or property in his or her possession ~~or~~, under his or her control,  
17 ~~or otherwise having access to them~~, shall permit access to, and  
18 examination and reproduction thereof, upon the request of the  
19 State Auditor or his or her authorized representative.

20 (b) For the purposes of access to and examination and  
21 reproduction of the records and property described in subdivision  
22 (a), an authorized representative of the State Auditor is an  
23 employee or officer of the *state or local governmental* agency or  
24 ~~public~~ ~~publicly created~~ entity involved and is subject to any  
25 limitations on release of the information as may apply to an  
26 employee or officer of the *state or local governmental* agency or  
27 ~~public~~ ~~publicly created~~ entity. For the purpose of conducting any  
28 audit or investigation, the State Auditor or his or her authorized  
29 representative shall have access to the records and property of any  
30 public or private entity or person subject to review or regulation  
31 by the public agency or public entity being audited or investigated  
32 to the same extent that employees or officers of that agency or  
33 public entity have access. No provision of law providing for the  
34 confidentiality of any records or property shall prevent disclosure  
35 pursuant to subdivision (a), unless the provision specifically refers  
36 to and precludes access and examination and reproduction  
37 pursuant to subdivision (a). This subdivision does not apply to  
38 records compiled pursuant to Part 1 (commencing with Section  
39 8900) or Part 2 (commencing with Section 10200) of Division 2.

(c) Any officer or person who fails or refuses to permit access and examination and reproduction, as required by this section, is guilty of a misdemeanor.

*SEC. 16. Section 8545.4 of the Government Code is amended to read:*

8545.4. (a) In connection with any audit or investigative audit conducted by the State Auditor, the State Auditor or his or her designee, may do any of the following:

(1) Administer oaths.

(2) Certify to all official acts.

(3) Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, or documents, or for the making of oral or written sworn statements, in any ~~investigative~~ interview conducted as part of an audit or investigative audit.

(b) Any subpoena issued under this section extends as process to all parts of the state and may be served by any person authorized to serve process of courts of record or by any person designated for that purpose by the State Auditor or his or her designee. The person serving this process may receive compensation as allowed by the State Auditor or his or her designee, not to exceed the fees prescribed by law for similar service.

(c) Notwithstanding Section 7470, 7474, or 7491, subpoenas issued under this section for financial records of financial institutions concerning customers of financial institutions or for information contained in those records shall not be subject to the requirement or conditions of Section 7474.

*SEC. 17. Section 8545.5 of the Government Code is amended to read:*

8545.5. (a) The superior court in the county in which any ~~investigative~~ interview is held under the direction of the State Auditor or his or her designee has jurisdiction to compel the attendance of witnesses, the making of oral or written sworn statements, and the production of papers, books, accounts, and documents, as required by any subpoena issued by the State Auditor or his or her designee.

(b) If any witness refuses to attend or testify or produce any papers required by the subpoena, the State Auditor or his or her designee may petition the superior court in the county in which the hearing is pending for an order compelling the person to attend and answer questions under penalty of perjury or produce the papers

1 required by the subpoena before the person named in the subpoena.

2 The petition shall set forth all of the following:

3 (1) That due notice of the time and place of attendance of the  
4 person or the production of the papers has been given.

5 (2) That the person has been subpoenaed in the manner  
6 prescribed in Section 8545.4.

7 (3) That the person has failed and refused to attend or produce  
8 the papers required by subpoena before the State Auditor or his or  
9 her designee as named in the subpoena, or has refused to answer  
10 questions propounded to him or her in the course of the  
11 investigative interview under penalty of perjury.

12 (c) Upon the filing of the petition, the court shall enter an order  
13 directing the person to appear before the court at a specified time  
14 and place and then and there show cause why he or she has not  
15 attended, answered questions under penalty of perjury, or  
16 produced the papers as required. A copy of the order shall be  
17 served upon him or her. If it appears to the court that the subpoena  
18 was regularly issued by the State Auditor or his or her designee,  
19 the court shall enter an order that the person appear before the  
20 person named in the subpoena at the time and place fixed in the  
21 order and answer questions under penalty of perjury or produce the  
22 required papers. Upon failure to obey the order, the person shall  
23 be dealt with as for contempt of court.

24 *SEC. 18. Section 8546.1 of the Government Code is amended*  
25 *to read:*

26 8546.1. (a) The State Auditor shall conduct financial and  
27 performance audits as directed by statute. The State Auditor may  
28 conduct these audits of any state agency as defined by Section  
29 11000, whether created by the California Constitution or  
30 otherwise, ~~and~~ any local governmental agency, including any city,  
31 county, and school or special district, *or any publicly created*  
32 *entity*. However, the State Auditor shall not audit the activities of  
33 the Milton Marks Commission on California State Government  
34 Organization and Economy or the Legislature to assure  
35 compliance with government auditing standards.

36 ~~The~~

37 (b) The State Auditor shall conduct any audit of a state or local  
38 governmental agency or any other publicly created entity that is  
39 requested by the Joint Legislative Audit Committee to the extent  
40 that funding is available and in accordance with the priority



1 established by the committee with respect to other audits requested  
2 by the committee. Members of the Legislature may submit  
3 requests for audits to the committee for its consideration and  
4 approval. Any audit request approved by the committee shall be  
5 forwarded to the State Auditor as a committee request.

6 ~~The~~

7 (c) *The* State Auditor shall complete any audit in a timely  
8 manner and in accordance with the “Government Auditing  
9 Standards” published by the Comptroller General of the United  
10 States.

11 ~~Immediately~~

12 (d) *Immediately* upon completion of the audit, the State  
13 Auditor shall transmit a copy of the audit report to the commission.  
14 Not later than 24 hours after delivery to the commission, the  
15 commission shall deliver the report to the Legislature, appropriate  
16 committees or subcommittees of the Legislature, and the  
17 Governor. Once transmitted to these parties, the report shall be  
18 made available to the public.

19 *SEC. 19. Section 8546.3 of the Government Code is amended*  
20 *to read:*

21 8546.3. The State Auditor shall examine and report annually  
22 upon the financial statements otherwise prepared by the executive  
23 branch of the state so that the Legislature and the public will be  
24 informed of the adequacy of those financial statements in  
25 compliance with generally accepted accounting principles ~~applied~~  
26 ~~on a basis consistent with that of the preceding fiscal year.~~ In  
27 making that examination, the State Auditor may make the audit  
28 examination of accounts and records, accounting procedures, and  
29 internal auditing performance that he or she determines to be  
30 necessary to disclose all material facts necessary to proper  
31 reporting in accordance with the federal Single Audit Act of 1984  
32 (31 U.S.C. Section 7501 ~~et seq.~~ *and following*) and the purposes  
33 set forth in Section 8521.5.

34 *SEC. 20. Section 8546.4 of the Government Code is amended*  
35 *to read:*

36 8546.4. (a) The State Auditor shall annually issue an  
37 auditor’s report based upon the general purpose financial  
38 statements included in the Controller’s annual report that is  
39 submitted to the Governor pursuant to Section 12460. The  
40 ~~auditor’s~~ report shall be in accordance with the “Government



1 Auditing Standards” published by the Comptroller General of the  
2 United States and the standards published by the American  
3 Institute of Certified Public Accountants.

4 (b) The State Auditor, in the performance of this annual audit,  
5 may examine all the financial records, accounts, and documents of  
6 any state agency as defined by Section 11000.

7 (c) The State Auditor shall rely, to the maximum extent  
8 possible, upon the audits performed by the Controller, the  
9 Department of Finance, internal auditors of state agencies, and  
10 independent contractors. The Director of Finance shall be  
11 responsible for coordinating and providing technical assistance to  
12 the internal auditors of state agencies. Nothing in this article is  
13 intended to reduce or restrict the operations of internal auditors  
14 whose review of internal financial and administrative controls of  
15 state agencies is essential for coordinated audits.

16 (d) State agencies receiving federal funds shall be primarily  
17 responsible for arranging for federally required financial and  
18 compliance audits. State agencies shall immediately notify the  
19 Director of Finance, the State Auditor, and the Controller when  
20 they are required to obtain federally required financial and  
21 compliance audits. The Director of Finance, the State Auditor, and  
22 the Controller shall coordinate the procurement by state agencies,  
23 including any negotiations with cognizant federal agencies, of  
24 federally required financial and compliance audits.

25 (e) To prevent duplication of the annual audit conducted by the  
26 State Auditor pursuant to subdivision (a), except for those state  
27 agencies that are required by state law to obtain an annual audit,  
28 no state agency shall enter into a contract for a financial or  
29 compliance audit without prior written approval of the Controller  
30 and the Director of Finance, which approval shall state the reason  
31 for the contract and shall be filed with the State Auditor at least 30  
32 days prior to the award of the contract. No funds appropriated by  
33 the Legislature shall be encumbered for the purpose of funding any  
34 contract for an audit that duplicates the annual financial audit  
35 conducted by the State Auditor.

36 (f) Notwithstanding any other provision of this article, nothing  
37 in this section shall be construed to limit, restrict, or otherwise  
38 infringe upon the constitutional or statutory authority of the  
39 Controller to superintend the fiscal concerns of the state.



(g) Notwithstanding any other provision of this article, nothing in this section shall be construed to limit, restrict, or otherwise infringe upon the statutory authority of the Director of Finance to supervise the financial and business policies of the state.

*SEC. 21. Section 8546.5 of the Government Code is amended and renumbered to read:*

~~8546.5.—~~

*13071.* The Director of Finance, in coordinating the internal auditors of state agencies, shall ensure that these auditors utilize the “Standards for the Professional Practices of Internal Auditing.”

*SEC. 22. Section 8546.8 of the Government Code is amended to read:*

8546.8. Unless the contrary is stated or clearly appears from the context, any reference to the Auditor General, ~~or the Office of the Auditor General, or the Joint Legislative Audit Committee~~ in any statute or contract in effect on the effective date of this chapter, other than Chapter 4 (commencing with Section 10500), with respect to the performance of audits, shall be construed to refer to the State Auditor, ~~and the Bureau of State Audits, and the Milton Marks Commission on California State Government Organization and Economy,~~ respectively.

*SEC. 23. The heading of Article 3 (commencing with Section 8547) of Chapter 6.5 of Division 1 of Title 2 of the Government Code is amended to read:*

Article 3. ~~Reporting of Improper Governmental Activities~~  
*California Whistleblower Protection Act*

*SEC. 24. Section 12430 of the Government Code is amended to read:*

12430. Annually, the Controller, the ~~Auditor General~~ *State Auditor*, and the Director of the Department of Finance shall each prepare a plan to meet their audit responsibilities. With respect to audits to fulfill the requirements necessary for the receipt of federal funds, the ~~Auditor General~~ *State Auditor* shall be primarily responsible for financial audits, and the Director of Finance or the Controller shall be primarily responsible for compliance audits, and the Director of Finance shall be primarily responsible for coordinating state agency internal audits and determining when

1 agencies are required to obtain federally mandated audits. Upon  
2 completion of these audit plans, the Controller, ~~Auditor General~~  
3 *State Auditor*, and Director of Finance shall meet to review and  
4 discuss the plans with the purpose of coordinating their audit  
5 efforts to avoid unnecessary duplication and negotiation with  
6 federal agencies regarding federally mandated audits.

7 Subsequent to their review of the audit plans and negotiations  
8 with federal agencies if the Controller, the Director of Finance, or  
9 the ~~Auditor General~~ *State Auditor* determines that the proposed  
10 audit plan of the other does not fulfill all audit requirements  
11 necessary for the receipt of federal funds, they may expand the  
12 scope of their audit of state agencies to meet the additional federal  
13 audit requirements. The financial audit report issued by the  
14 ~~Auditor General~~ *State Auditor* and the compliance audit report  
15 issued by the Controller or the Director of Finance or both are  
16 intended to fulfill federally mandated audit requirements. These  
17 audit reports shall be performed in accordance with the “Standards  
18 for Audits of Governmental Organizations, Programs, Activities  
19 and Functions,” published by the Comptroller General of the  
20 United States, and the standards published by the American  
21 Institute of Certified Public Accountants.

22 Nothing in this section shall be construed to limit, restrict, or  
23 otherwise infringe upon the duty of the ~~Auditor General~~ *State*  
24 *Auditor* to conduct annual financial audits pursuant to Section  
25 10534 or to limit, restrict, or otherwise infringe upon the authority  
26 of the Joint Legislative Audit Committee to direct the ~~Auditor~~  
27 ~~General~~ *State Auditor* to conduct any audit of state government  
28 pursuant to ~~Chapter 4 (commencing with Section 10500) of Part~~  
29 ~~2 of Division 2 Chapter 6.5 (commencing with Section 8540) of~~  
30 *Division 1 of Title 2.*

31 *SEC. 25. Section 13297 of the Government Code is amended*  
32 *to read:*

33 13297. The money in the Treasury shall be counted by the  
34 ~~Auditor General~~ *State Auditor* at least twice each year, without  
35 giving the Treasurer any previous notice of the day or hour of  
36 counting.

37 At any counting the ~~Auditor General~~ *State Auditor* may place  
38 any sum in bags or boxes and mark and seal them with a seal  
39 adopted and kept by him or her. At any subsequent counting he or  
40 she may count each sealed bag or box separately and credit at the

1 value stamped thereon the contents of the bags or boxes as part of  
2 the money counted without making a detailed count of the  
3 contents.

4 *SEC. 26. Section 13298 of the Government Code is amended*  
5 *to read:*

6 13298. The ~~Auditor General~~ State Auditor shall count as cash  
7 all evidence of money belonging to the state upon deposit outside  
8 the treasury that may be held by the Treasurer in accordance with  
9 law and shall determine for himself or herself whether ~~such that~~  
10 evidence is sufficient according to law.

11 *SEC. 27. Section 13299 of the Government Code is amended*  
12 *to read:*

13 13299. After each count of money the ~~Auditor General~~ State  
14 Auditor shall make and file with the Secretary of State and cause  
15 to be published in some newspaper in the City of Sacramento, an  
16 affidavit showing:

17 (a) The amount of money or credit ~~which that~~ should be in the  
18 treasury.

19 (b) The amount and kind of money or credit actually ~~therein in~~  
20 *the treasury.*

21 *SEC. 28. Section 13299.1 of the Government Code is*  
22 *amended to read:*

23 13299.1. Securities held in the treasury or other depositories  
24 for safekeeping purposes shall be counted or confirmed, at least  
25 annually, by the ~~Auditor General~~ State Auditor. After each count  
26 or confirmation of securities, the ~~Auditor General~~ State Auditor  
27 shall issue his or her report on the accountability of securities.

28 *SEC. 29. Section 13405 of the Government Code is amended*  
29 *to read:*

30 13405. (a) To ensure that the requirements of this section are  
31 fully complied with, the head of each agency which the director  
32 determines is covered by this section shall prepare and submit a  
33 report on the adequacy of the agency's systems of internal  
34 accounting and administrative control by December 31, 1983, and  
35 by December 31 following the end of each odd-numbered fiscal  
36 year thereafter.

37 (b) The report, including the state agency's response to report  
38 recommendations, shall be signed by the head of the agency and  
39 addressed to the agency secretary or the director of finance for  
40 agencies without an agency secretary. Copies of the reports shall

1 be forwarded to the Legislature, the ~~Auditor General~~ *State*  
2 *Auditor*, the Governor, and the Director of Finance. Copies of  
3 these reports shall also be forwarded to the State Library where  
4 they shall be available for public inspection.

5 (c) By January 1, 1983, the director, in consultation with the  
6 ~~Auditor General~~ *State Auditor* and the Controller, shall establish  
7 a system of reporting and a general framework to guide the  
8 agencies in performing evaluations on their systems of internal  
9 accounting and administrative control. The director, in  
10 consultation with the ~~Auditor General~~ *State Auditor* and the  
11 Controller, may modify the format for the report or the framework  
12 for conducting the evaluations from time to time as deemed  
13 necessary.

14 (d) Any material inadequacy or material weakness in an  
15 agency's systems of internal accounting and administrative  
16 control which prevents the head of the agency from stating that the  
17 agency's systems of internal accounting and administrative  
18 control provided reasonable assurances that each of the objectives  
19 specified above was achieved, shall be identified and the plans and  
20 schedule for correcting any such inadequacy described in detail.

21 *SEC. 30. Section 16366.7 of the Government Code is*  
22 *amended to read:*

23 16366.7. Since federal block grant funds were reduced by an  
24 average of 26 percent during the 1981–82 fiscal year and are  
25 proposed for further reductions during the 1982–83 fiscal year, the  
26 Legislature declares that the state's administrative costs and  
27 processes must be reduced in order to ~~insure~~ *ensure* that maximum  
28 funds are available to continue essential direct human services.

29 Therefore, notwithstanding any other provision of law, all of the  
30 following state procedures shall be implemented within 60 days  
31 after the effective date of this section:

32 (a) All state agencies, offices, or departments administering  
33 federal block grant funds shall have the authority, subject to the  
34 approval of the Department of Finance, to grant advance payments  
35 of federal funds to contractors or local governmental agencies in  
36 any amounts as the administering state department deems  
37 necessary for startup or continued provision of services or  
38 program operation.

39 (b) Departmental service contracts utilizing federal block grant  
40 funds shall be exempt from approval by the Department of Finance

1 and the State Department of General Services prior to their  
2 execution. Instead, the proper state fiscal controls over federal  
3 block grant funds shall be insured by all of the following  
4 provisions:

5 (1) State departments ~~which~~ *that* award block grant funds to  
6 local agencies shall permit, as appropriate, to the extent that  
7 federal funds are available for this purpose, local agencies to  
8 provide for federally mandated financial and compliance audits of  
9 block grant awards in accordance with the federal audit provisions  
10 and standards promulgated by the Comptroller General of the  
11 United States, and consistent with the department's approved audit  
12 plan.

13 (2) The Department of Finance, in consultation with the  
14 Controller, shall establish fiscal reporting requirements for the  
15 departments to use on a quarterly basis with all providers.

16 (3) In the event a contractor has not engaged in a contract for  
17 these program purposes before with the state, state administering  
18 departments shall have the authority to conduct a preaudit or fund  
19 a preaudit by the Controller in order to certify the ability of the  
20 contractor to administer the funds.

21 (4) The ~~Auditor General~~ *State Auditor* shall provide audit  
22 findings regarding each block grant to the Legislature no later than  
23 May 1 of each year.

24 (c) Each administering state department shall develop standard  
25 definitions for units of service, costs per unit of service, citizen  
26 participation processes, and due process notification for clients in  
27 relation to diminishing federal funds within 60 days after the  
28 effective date of this section and shall incorporate all of these  
29 elements into each agreement or contract.

30 (d) To the extent possible, compliance with this section shall be  
31 consistent with federal policies and procedures. Reports required  
32 under this section shall be combined, where practical, with any  
33 other similar reports required by the Legislature and by the federal  
34 government.

35 *SEC. 31. Section 53134 of the Government Code is amended*  
36 *to read:*

37 53134. (a) Local agencies shall have the option, pursuant to  
38 the provisions of Section 53135, to provide for federally mandated  
39 financial and compliance audits of block grant funds received  
40 from state departments. If, however, a local agency does not elect



1 to, or fails to provide for, federally mandated financial and  
2 compliance audits, or if it is determined by the administering state  
3 department that a local agency warrants assistance in this function,  
4 the state department shall notify the Controller, and the Controller  
5 shall identify appropriate methods for accomplishing federally  
6 required audits.

7 The decision of the Controller shall be based upon use of any  
8 existing state audit relationship, whenever appropriate in view of  
9 federal requirements, so as to avoid duplication and excess costs.

10 (b) The state shall rely on the audit arranged by the local agency  
11 if the audit is conducted in accordance with the standards  
12 promulgated by the state consistent with federal policy. Additional  
13 work shall not duplicate these audits and shall be conducted only  
14 upon approval of the Controller in consultation with the  
15 Department of Finance ~~and the Auditor General~~.

16 (c) Audits performed pursuant to this article shall be conducted  
17 not less frequently than every two years, or as specified by federal  
18 law, by qualified state or local government auditors or independent  
19 public accountants in accordance with the financial and  
20 compliance requirements of federal Standards for Audit of  
21 Governmental Organizations, Programs, Activities and  
22 Functions. These audits shall be completed no later than six  
23 months after the close of the audit period. If the provisions of this  
24 subdivision have not been met, the Controller shall immediately  
25 notify the Governor and the Legislature as to what corrective  
26 actions it intends to take.

27 *SEC. 32. Section 53138 of the Government Code is amended*  
28 *to read:*

29 53138. The Controller, the Department of Finance, the  
30 ~~Auditor General's State Auditor's~~ office, or other state department  
31 auditors may perform audit activities pursuant to this article  
32 insofar as the standards of independence contained in the ~~federal~~  
33 ~~Standards for Audit of Governmental Organizations, Programs,~~  
34 ~~Activities and Functions—~~ "Government Auditing Standards"  
35 *published by the Comptroller General of the United States* are met.

36 *SEC. 33. Section 18502.5 of the Health and Safety Code is*  
37 *amended to read:*

38 18502.5. (a) There is hereby established in the State Treasury  
39 the Mobilehome Parks Revolving Fund into which funds collected  
40 by the department pursuant to this part shall be deposited.



1 Notwithstanding Section 13340 of the Government Code, money  
2 deposited in the fund is continuously appropriated to the  
3 department for expenditure in carrying out the provisions of this  
4 part.

5 (b) Notwithstanding any maximum fees set by this part, the  
6 department may, by regulation, set fees charged by the department  
7 for all permits and for the department's activities mandated by this  
8 part. The fees shall be set with the primary objective that the  
9 aggregate revenue deposited in the Mobilehome Parks Revolving  
10 Fund shall not, on an annual basis, exceed the costs of the  
11 department's activities mandated by this part.

12 (c) No proposed increase in fees may be effective any sooner  
13 than 45 days after written notification thereof is provided to the  
14 Chairman of the Joint Legislative Audit Committee and the  
15 ~~Auditor General~~ *State Auditor*. Upon receipt of the notification,  
16 the ~~Auditor General~~ *State Auditor* may prepare, a report to the  
17 Legislature which indicates whether the proposed increase is  
18 appropriate and consistent with the provisions of this part.

19 (d) The total money contained in the Mobilehome Parks  
20 Revolving Fund on June 30 of each fiscal year shall not exceed the  
21 amount of money needed for the department's operating expenses  
22 for one year for the enforcement of this part. If the total money  
23 contained in the fund exceeds this amount, the department shall  
24 make appropriate reductions in the schedule of fees authorized by  
25 this section.

26 ~~(e) This section shall become operative January 1, 1984.~~

27 *SEC. 34. Section 10359 of the Public Contract Code is*  
28 *amended to read:*

29 10359. (a) Each state agency shall annually prepare a report  
30 pursuant to this section that includes a list of the consulting  
31 services contracts into which it has entered during the previous  
32 fiscal year. The listing shall include the following information:

33 (1) The name and identification of each contractor.

34 (2) The type of bidding entered into, the number of bidders,  
35 whether the low bidder was accepted, and if the low bidder was not  
36 accepted, an explanation of why another contractor was selected.

37 (3) The amount of the contract price.

38 (4) Whether the contract was a sole-source contract, and why  
39 the contract was a sole-source contract.

40 (5) The purpose of the contract and the potential beneficiaries.

(6) The date on which the initial contract was signed, the date on which the work began and was completed.

The report shall also include a separate listing of consultant contracts completed during that fiscal year, with the same information as above.

(b) The report this section requires shall also include a list of any contracts underway during that fiscal year on which any change was made regarding the following:

(1) The completion date of the contract.

(2) The amount of money to be received by the contractor, if it exceeds 3 percent of the original contract price.

(3) The purpose of the contract or duties of the contractor. A brief explanation shall be given if the change in purpose is significant.

(c) Copies of the annual report shall be sent within 30 working days after the end of the previous fiscal year to the Legislative Analyst, the Department of Finance, the Department of General Services, the ~~Auditor General~~ *State Auditor*, the Joint Legislative Budget Committee, *the Joint Legislative Audit Committee*, and the Senate ~~Appropriations Committee~~, ~~and Assembly and the Assembly Ways and Means Committee~~ *and Assembly Committees on Appropriations*.

(d) State agencies shall not use the temporary budget allocation process as a means of circumventing the requirements of this section.

(e) Sixty days after the close of the fiscal year, the department shall furnish to the officials and committees listed in subdivision (c), a list of the departments and agencies that have not submitted the required report specified in this section.

*SEC. 35. Section 2154 of the Streets and Highways Code is amended to read:*

2154. The ~~State~~ Controller shall annually tabulate and compile all such reports received by him *or her* and shall distribute copies of ~~such~~ *that* tabulation and compilation to the Governor, the Lieutenant Governor, the Members of the Legislature, the department, the ~~Auditor General~~ *State Auditor*, *the Joint Legislative Audit Committee*, the cities, and the counties and to any legislative committee charged with the investigation of streets, roads, highways, or bridges in this state.

1     *SEC. 36. Section 11212 of the Vehicle Code is amended to*  
2     *read:*

3     11212. (a) Every owner licensed under this chapter shall  
4     keep a record at the traffic violator school's primary business  
5     location showing all of the following for each student:

6         (1) The name and address and license number of the traffic  
7         violator school providing instruction.

8         (2) The name and address of each person given instruction.

9         (3) The instruction permit number or driver's license number  
10        of every person given instruction.

11        (4) The name and number of the license issued pursuant to  
12        Section 11207 of the traffic violator school instructor.

13        (5) The particular type of instruction given and the date or dates  
14        of the instruction.

15        (6) A statement as to whether the approved lesson plan was  
16        followed.

17        (7) The total number of hours of instruction.

18        (8) The total cost to the student of the instruction, which shall  
19        not exceed the amount of the fee represented or advertised by the  
20        traffic violator school at the time of the student's enrollment.

21        (9) The court docket number under which the student was  
22        referred to a traffic violator school.

23        (10) The number of the completion certificate issued to the  
24        student pursuant to subdivision (e) of Section 11208 and, if  
25        different, the number of any copy thereof issued to the student.

26        (b) The records shall be retained for a minimum of three years  
27        and shall be open to the inspection during business hours and at all  
28        other reasonable times by the department, the court, a private  
29        entity providing monitoring pursuant to Section 11222, the  
30        Legislative Analyst, and the ~~Auditor General~~ *State Auditor* or  
31        authorized employees thereof, but shall be only for confidential  
32        use.

33        (c) Whenever a licensee suspends or terminates the licensed  
34        activity, the licensee shall surrender the records specified in  
35        subdivision (a) to the department for examination not later than the  
36        end of the third day, excluding Saturdays, Sundays, and legal  
37        holidays, after the date of suspension or termination. The  
38        department may duplicate or make a record of any information  
39        contained therein. All these records shall be returned to the  
40        licensee not later than 30 days after the date of surrender.

1     *SEC. 37. Section 11222 of the Vehicle Code is amended to*  
2     *read:*

3     11222. The department may contract with a nongovernmental  
4     entity to administer any part of this chapter, subject to limitations  
5     in other laws regarding contracting out for services. No such  
6     contract shall exceed three years' duration. The contracting entity,  
7     and any affiliate or subsidiary thereof monitoring traffic violator  
8     schools, shall conform to all of the following requirements:

9     (a) Engage in no other business activity with traffic violator  
10    schools or any of the principals of the traffic violator schools,  
11    including the provision of services or supplies.

12    (b) Provide reports in statistical form to the department and to  
13    the Legislature as instructed by the department. These reports shall  
14    be issued not less frequently than annually.

15    (c) Make its records available for inspection by authorized  
16    representatives of the department, the Legislative Analyst, and the  
17    ~~Auditor General~~ State Auditor.

18    *SEC. 38. Section 14100.2 of the Welfare and Institutions Code*  
19    *is amended to read:*

20    14100.2. (a) All types of information, whether written or  
21    oral, concerning a person, made or kept by any public officer or  
22    agency in connection with the administration of any provision of  
23    this chapter, Chapter 8 (commencing with Section 14200), or  
24    Chapter 8.7 (commencing with Section 14520) and for which a  
25    grant-in-aid is received by this state from the United States  
26    government pursuant to Title XIX of the Social Security Act shall  
27    be confidential, and shall not be open to examination other than for  
28    purposes directly connected with the administration of the  
29    Medi-Cal program. However, in the context of a petition for the  
30    appointment of a conservator for a person with respect to whom  
31    ~~such~~ *this* information is made or kept, and in the context of a  
32    criminal prosecution for a violation of Section 368 of Penal Code  
33    with respect to such a person, all of the following shall apply:

34    A public officer or employee of any such agency may answer  
35    truthfully, at any proceeding related to the petition or prosecution,  
36    when asked if he or she is aware of information that he or she  
37    believes is related to the legal mental capacity of that aid recipient  
38    or the need for a conservatorship for that aid recipient. If the officer  
39    or employee states that he or she is aware of this information, the  
40    court may order the officer or employee to testify about his or her

1 observations and to disclose any relevant agency records if the  
2 court has an other independent reason to believe that the officer or  
3 employee has information that would facilitate the resolution of  
4 the matter.

5 (b) Except as provided in this section and to the extent  
6 permitted by federal law or regulation all information about  
7 applicants and recipients as provided for in subdivision (a) to be  
8 safeguarded includes, but is not limited to, names and addresses,  
9 medical services provided, social and economic conditions or  
10 circumstances, agency evaluation of personal information, and  
11 medical data, including diagnosis and past history of disease or  
12 disability.

13 (c) Purposes directly connected with the administration of the  
14 Medi-Cal program, Chapter 8 (commencing with Section 14200),  
15 or Chapter 8.7 (commencing with Section 14520) encompass  
16 those administrative activities and responsibilities in which the  
17 State Department of Health Services and its agents are required to  
18 engage to insure effective program operations. These activities  
19 include, but are not limited to: establishing eligibility and methods  
20 of reimbursement; determining the amount of medical assistance;  
21 providing services for recipients; conducting or assisting an  
22 investigation, prosecution, or civil or criminal proceeding related  
23 to the administration of the Medi-Cal program; and conducting or  
24 assisting a legislative investigation or audit related to the  
25 administration of the Medi-Cal program.

26 (d) Any officer, agent, or employee of the State Department of  
27 Health Services or of any public agency shall provide the Joint  
28 Legislative Audit Committee and the ~~Auditor General~~ *State*  
29 *Auditor* with any and all the information described in subdivision  
30 (b) within a reasonable period of time as determined by the  
31 committee in consultation with the State Department of Health  
32 Services, after receipt of a request from the committee approved  
33 by a majority of the members of the committee. The Joint  
34 Legislative Audit Committee and the ~~Auditor General~~ *State*  
35 *Auditor* may use ~~such~~ *that* information only for the purpose of  
36 investigating or auditing the administration of the Medi-Cal  
37 program, Chapter 8 (commencing with Section 14200), or Chapter  
38 8.7 (commencing with Section 14520), and shall not use ~~such~~ *that*  
39 information for commercial or political purposes. In any case  
40 where disclosure of information is authorized by this section, the

1 Joint Legislative Audit Committee or the ~~Auditor General~~ *State*  
2 *Auditor* shall not disclose the identity of any applicant or recipient,  
3 except in the case of a criminal or civil proceeding conducted in  
4 connection with the administration of the Medi-Cal program.

5 (e) The access to information provided in subdivision (d) shall  
6 be permitted only to the extent and under the conditions provided  
7 by federal law and regulations governing the release of such  
8 information.

9 (f) The State Department of Health Services may make rules  
10 and regulations governing the custody, use and preservation of all  
11 records, papers, files, and communications pertaining to the  
12 administration of the laws relating to the Medi-Cal program,  
13 Chapter 8 (commencing with Section 14200), or Chapter 8.7  
14 (commencing with Section 14520). The rules and regulations shall  
15 be binding on all departments, officials, and employees of the  
16 state, or of any political subdivision of the state and may provide  
17 for giving information to or exchanging information with  
18 agencies, public or political subdivisions of the state, and may  
19 provide for giving information to or exchanging information with  
20 agencies, public or private, which are engaged in planning,  
21 providing or securing such services for or in behalf of recipients  
22 or applicants; and for making case records available for research  
23 purposes, provided, that ~~such~~ *that* research will not result in the  
24 disclosure of the identity of applicants for or recipients of ~~such~~  
25 *those* services.

26 (g) Upon request, the department shall release to the negotiator  
27 established pursuant to Article 2.6 (commencing with Section  
28 14081) all computer tapes and any modifications thereto,  
29 including paid claims, connected with the administration of the  
30 Medi-Cal program which are in the possession or under the control  
31 of the department, including tapes prepared prior to the effective  
32 date of this section.

33 To ensure compliance with federal law and regulations, the  
34 department shall make the minimum necessary modifications to  
35 its computer tapes prior to releasing the tapes to the negotiator in  
36 order to assure the confidentiality of the identity of all applicants  
37 for, or recipients of, those services. The department shall not make  
38 any modifications to paid claims tapes ~~which~~ *that* affect  
39 information regarding beneficiaries' aid categories or counties of  
40 origin.

1 (h) Any person who knowingly releases or possesses  
2 confidential information concerning persons who have applied for  
3 or who have been granted any form of Medi-Cal benefits or  
4 benefits under Chapter 8 (commencing with Section 14200) or  
5 Chapter 8.7 (commencing with Section 14520) for which state or  
6 federal funds are made available in violation of this section is  
7 guilty of a misdemeanor.

8 ~~amended to read:~~

9 ~~10504. — After recommendation by the committee, the Auditor~~  
10 ~~General shall be selected by concurrent resolution and shall serve~~  
11 ~~until his or her successor is selected or until he or she is removed~~  
12 ~~by concurrent resolution. When the Legislature is not in session,~~  
13 ~~the committee may suspend the Auditor General until the~~  
14 ~~Legislature reconvenes. When the Legislature is in session, the~~  
15 ~~committee may suspend the Auditor General for a period not to~~  
16 ~~exceed 30 days. When there is a vacancy in the office of Auditor~~  
17 ~~General, the Chairman of the Joint Legislative Audit Committee~~  
18 ~~shall select an acting Auditor General until an Auditor General is~~  
19 ~~selected by the Legislature. The committee shall fix the salary of~~  
20 ~~the Auditor General, deputies, and staff. The funds for the support~~  
21 ~~of the committee shall be provided from the Contingent Funds of~~  
22 ~~the Assembly and Senate in the same manner that those funds are~~  
23 ~~made available to other joint committees of the Legislature.~~